

- (1) The Appeals Board has jurisdiction to review a finding that an injury arose out of and in the course of employment on an appeal from a Preliminary Hearing Order. K.S.A. 44-534a.
- (2) The Appeals Board finds the claimant has not met her burden of proving that the injury arose out of and in the course of her employment and concludes the Order of the Administrative Law Judge should be reversed. Claimant testified that she injured her knee when she jumped down from a counter on which she was standing to dust a television set. The evidence presented by respondent raises substantial doubt about the claimant's testimony. One witness testified that claimant had told her she injured her knee in the backyard of her home. Another testified claimant's daughter told her claimant had injured her knee when she tripped over a rut in the yard at home. Two witnesses testified that

claimant walked normally until claimant knew she was being observed. Claimant then began limping. Claimant herself gave inconsistent descriptions of the accident, claiming at times that she slipped off a crate at work. From the review of the record as a whole, the Appeals Board finds that claimant's description of the events lacks sufficient credibility to meet her burden.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge Nelsonna Potts Barnes dated April 7, 1995 should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of July 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
Vaughn Burkholder, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
David Shufelt, Acting Director